No. 80 - 824

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In The

Supreme Court of the United States

October Term, 1980

POLK COUNTY; POLK COUNTY BOARD OF SUPERVISORS; POLK COUNTY OFFENDER ADVOCATE; and MARTHA SHEPARD, Individually and through her official capacity as an Agent or Assistant for Polk County,

Petitioners,

VS.

RUSSELL RICHARD DODSON,

Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

JOINT APPENDIX

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ATTORNEYS FOR PETITIONERS

Petition for Certiorari filed November 21, 1980
Certiorari granted March 2, 1981

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1981

NO. 80-824

POLK COUNTY BOARD OF SUPERVISORS;
POLK COUNTY OFFENDER ADVOCATE; and
Martha Shepard, Individually and through her official capacity as an Agent or Assistant for Polk County,

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CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

Nov. 5, 1979 - Dodson's Motion to Proceed with Leave in Forma Pauperis filed in U.S. District Court for the Southern District of Iowa, Central Division

Nov. 5, 1979 - Dodson's Complaint filed in U.S. District Court

Nov. 5, 1979 - Order of Dismissal filed by U.S. District Court

Nov. 15, 1979 - Dodson's Motion to Reconsider Order or in Alternative, Motion for Leave to Take an Interlocutory Appeal in Forma Pauperis filed in the U.S. District Court

Nov. 20, 1979 - Ruling on Motion, Amendment to Order, and Order by U.S. District Court.

Nov. 23, 1979 - Notice of Appeal filed with the Eighth Circuit Court of Appeals.

Feb. 4, 1980 - Notice of Appointment of John D. Hudson as Counsel for Appellant in Appeal to Eighth Circuit Court of Appeals.

Aug. 26, 1980 - Opinion of Eighth Circuit Court of Appeals.

March 2, 1981 - Order of U.S. Supreme Court granting Petition for a Writ of Certiorari.

March 2, 1981 - Order of the U.S. Supreme Court granting Respondent's Motion for Leave to Proceed in Forma Pauperis.

March 23, 1981 - Order of U.S. Supreme Court Appointing John D. Hudson to serve as Counsel for Respondent.

* * * * * * *

The following opinions and orders have been omitted in printing this appendix because they appear on the following pages in the appendix to the printed Petition for Writ of Certiorari:

Opinion of the U.S. District Court for the Southern District of Iowa, Central Division, filed Nov. 5, 1979. . . . . Petition for Certiorari App. B

Opinion of the Eighth Circuit Court of Appeals, filed August 26, 1980. . . . . Petition for Certiorari App. A

THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

RUSSELL RICHARD DODSON Plaintiff, vs. POLK COUNTY; POLK COUNTY BOARD OF SUPERVISORS; POLK COUNTY OFFENDER ADVOCATES and MARTHA SHEPARD, Individually and through her official capacity as an Agent or Assistant for Polk County, Defendants.	CIVIL CASE NO. 79-507-B

MOTION TO PROCEED WITH LEAVE IN FORMA PAUPERIS
(Filed November 5, 1979)

COMES NOW the Petitioner Russell Richard Dodson and moves this Court for leave to proceed in this action in Forma Pauperis, pursuant to /28/ U.S.C. sec 1915(d) without first being to pre-pay fees and costs or otherwise being required to give security therefore.

In support of this motion Petitioner

has attached his affidavit of poverty hereto.

Respectfully Submitted,

/s/ _____
Russell Richard Dodson

AFFIDAVIT OF POVERTY

I, Richard Russell Dodson, being first duly sworn according to law, deposes and states:

1. I am the Plaintiff in this above titled action;

2. I bring this action in good faith;

3. This action seeks to enjoin the Defendants and other parties to this action and recover monies for damages and deprivations therefrom;

4. I believe that I am entitled to the redress and relief sought in this action;

5. I have read and know the contents of this action and hold it to be true;

The only money that I own is that sent to me by my family for the purpose of personal maintenance, I presently have $15.00 in my prison account . . . other than the above money received by me from my family, I have no other income and have not worked at a paying job since March 1st 19 because of my poverty I am unable to pay costs of this action, to give security therefore, or employ an attorney.

/s/_____
Russell Richard Dodson
P.O. Box B
Anamosa, Iowa 52205
PRO SE

Subscribed and sworn to before me this 3rd day of October, 1979 at Anamosa, Iowa.

/s/_____
Notary Public

COMPLAINT
(filed November 5, 1979,
in the United States District Court
for the Southern District of Iowa)
[Title omitted in printing]

LEGAL MAL-PRACTICE
PUNITIVE DAMAGE
NOMINAL DAMAGE
INJUNCTIVE RELIEF

COMES NOW Plaintiff, authorized and pursuant to Federal Civil Rights Act /1871/ and further with consistance to Federal Civil Rights Act Title /42/ of the United States Code Sec. /1983/ to redress the deprivation under state color of law.

STATEMENT

I above named Russell Richard Dodson Plaintiff am now and as of March 12th, 1979 have been in the custody and a prisoner of the State of Iowa, under the supervision of the Dept. of Corrections. I am presently confined in the Men's Reformatory at Anamosa, Iowa County of Jones 52205 under Warden Calvin Auger, I am identified by the No. #204693-7.

Polk County is enjoined in this action because it is the political basis, and the source that authorizes it's quasi-contractants to act in the manner prescribed in this complaint;

Polk County Board of Supervisors are enjoined because from the powers invested through them from Polk County they established and layed out the grounds rules for Polk County Offender Advocates Office to abide by while acting as agents and assistants under the supervision and control of the Board of Supervisors and are held liable for their employee's acts or any imuted negligence therefrom;

Polk County Offender Advocates maintain the direct responsibility and this office is enjoined because the whole office staff at one time or another have practiced in the same manner complained about and will be further enjoined when this complaint is amended into a class action by other plain-

tiff's that were subjected to this same form of legal mal-practice this office conducts in;

Martha Shepard is held individually liable for punitive damages in that it is her misrepresentation and conduct, is the direct result of the mental anguishes and deprivation that Plaintiff is complaining about. Her neglect is the direct cause of why Plaintiff has not filed an appeal, thus causing a delay, constituting a lower period for Plaintiff to be subjected to the conditions of prison which are constantly humiliating and a great burden that out weighs his mentality, and forces Plaintiff to endure the strains and pains therefrom; still further Ms. Shepard verbally contracted her service to Plaintiff from this built Plaintiff's hope and respect, but from what ever political pressure, adverse inference, bad faith or neglect Ms. Shepard has completely des-

troyed all Plaintiff has built up, while nervously waiting for eight /8/ months to hear the progress of his appeal he is sent a letter stateing the appeal has no merit breaching her verbal contract and leaving Plaintiff to suffer therefrom;

QUASI-CONTRACT LIABILITY

All of the above Dept's Agencies Asso's and individuals are involved in a circulation of transferred responsibilities all derived from the main source from which Polk County invested in them thus making all parties liable as one and enjoining them as the same.

BASIS OF THIS ACTION

On or about the 9th of March 1979 Plaintiff was appointed Offender Advocate, Martha Shepard to perfect an appeal to which a verbal contract was agreed upon between Plaintiff and Defendant, from the above date Plaintiff was under the impression that briefs to support this appeal

was being drawn up and put together for arguments in the Supreme Court. On September 10th 1979 Plaintiff receives a letter from Defendant all adverse to the above and no appeal has been filed leaving Plaintiff to suffer therefrom.

COMMENCEMENT OF ACTION

This is the incipiant state of, for an application as well as the incipiant stage of a class action for those case citings which are included, and have all been subject to this same practice from this same office in the last two /2/ years and all are in this institution at this time as well as Defendant-Plaintiff;

Defendant-Plaintiff comes before this Court and contends pursuant to the Code of professional responsibility, consistant with canons, ethical consideration and disciplinary rules, that a lawyer should assist maintain represent protect exercise diligence through zealous attitudes, protect

the clients interests, employing no deceptive practices, not to hold any position that would conflict or tend to be adverse to properly setting up the defense and doing the same within the bounds of the law;

Plaintiff further contends through abstraction; that Ms. Martha Shepard is individually liable and as well as through her official capacity, litigator for Polk County's Offender Advocate Office in quasi-contract with Polk County with powers invested therefrom, in responsibility through stipulation of contract and obligation that requires her to exercise her mind in accordance with the legal training she received, that qualifies her as and advocate, and in doing so, it is her responsibility, to investigate review and study the events, motions, procedures and all material facts pertaining to this case cited as 13950, and on ascertaining to set out the facts, that constitute error violation mistakes

mis-carriages and in general prejudicial and un-constitutional rulings orders decisions and or procedures.

Still further it is contended that Ms. Martha Shepard exercised apthy and clearly neglected her responsibilities as a lawyer; in that she played on the intellect and manipulated the mentallity of an un-trained incompetent generally educated, mind which is that of the Defendant-Plaintiff which was un-able to assert any cliams which would have a proper foundation or a basis for the Courts to entertain them for merit and Ms. Shepard knowing the same still exerciseing fraudulent conduct concludes that the appeal or any procedure thereafter would be frivolous;

Plaintiff contends, this practice is not only acting in bad faith, gross negligence and abusing the process, but clearly a form of legal mal-practice;

Plaintiff was appointed counsel, to

represent and protect his interests, while perfecting an appeal, this contract recognized by the law, from stipulations by the A.B.A. I.B.A. as well as the code of professional responsibility as that in which all attorney's will perform; also there was a verbal contract between Ms. Shepard and Mr. Dodson consituted another bond that holds this attorney to represent in the best of ways as she decietfully stated;

These agencies asso.s and codes further point out that an advocate that has been permitted, with license and authorized as being qualified are there to advise and assist Plaintiff specifically points out Canon 2, Recognition of Legal Problems E.C. 2-2, the legal profession should assist lay-persons to recognize legal problems, because such problems may not be self-revealing and are often not timely noticed: This is pointed out and concluded with, the fact that Ms.

Shepard took three /3/ issues that Defendant Plaintiff thought were grounds to raise on appeal: There is no showing as to where she even attempted, to point out any grounds, but it is clearly shown where she found grounds to knock this appeal, it would appear that this counsels diligence and zeal was all spent researching for the prosecution and nothing for the defense in perfecting an appeal;

Plaintiff includes Canon /3/ E.C. 3-5 its pointed out, because it further defines the conduct of a lawyer;

Defendant-Plaintiff contends that Ms. Shepard has clearly clearly taken the informations collected in this Case 13950, and improperly used it against him in an attempt to terminate employment which has caused Plaintiff great amounts of mental anguishes, which will be later set out in this action; she has taken all the facts, events claims and procedures, and applied them to references that would deny Defendant-Plaintiff

an appeal. This is highly adverse to Canon /4/ E.C. 4-5 and the opposit to what she agreed to do through verbal contract, through code stipulation and what she was employed for in the first place;

Defendant-Plaintiff sets out a practice that fraudulent and completely defeats itself: but purports to be of benefit and protection to the indigent persons.

The process, by which the County establishes retains and maintains, advocates out of law school and held as publics defenders (Offender Advocate of Polk County) this is the biggest collection of fraudulent devices, since counter-fiet twenty /20/ dallor bills and their plates: The above clearly, is self explanatory as with further references, to review this agencies records and files in regards to winning cases, as opposed to plea bargaining, straight guilty pleas, probation agreements, straight loses and over all

the issue about the grammy award winning "Frivolous Appeal" pursuant to F.R.A.P. /104/ that each and every advocate of this office has put in on more than several occaisions, and without the slightest amount of speculation and nil amount of suspicion they are granted; and many persons are left without any relief "because this termination is granted because the trial was perfect and no errors ever arised";

The other parties of this class action are all from Des Moines, Iowa all were represented by Offender Advocate of Polk County, and all were so unsuspiciously, unfortuneanate to have a frivolous appeal;

Defendant-Plaintiff is vacilating as to a decision in regards to why the courts have not taken it upon themselves to investigate, when the above mentioned would lead a professional mind to look at what the context of Canon 5 E.C. 5-23 states; and to practice what this complaint is about, which clearly conflicts with the whole

code of professional responsibility, not to leave out the prejudicial effect toward the Defendant-Plaintiff and the consitutional violations therefrom. Plaintiff seeks to enjoin the parties of this action in this court and recover monies and compensation for damages that came in the form of mental anguishes pains and sufferings and constitutional deprivations and violations that are prejudicial thereby; This matter in controversy exceeds exclusive of interests and costs the sum of $175,0000 00 divided as follows;

Plaintiff seeks the sum of $100,000.00 relief for legal mal-practice.

Plaintiff seeks the sum of 50,000.00 relief for punitive damages

Plaintiff seeks the sum of 25,000.00 relief for nominal damages

Plaintiff further seeks an injunctive restraint to vacate and set aside this sentence

It is held that a prisoner who has been effectively deprived of his rights to appeal, by deception practiced on him by his counsel, is entitled to motion for vacation and setting aside sentence. . . See Desmond v. U.S, C.A. Mass. 1964 333 F2d 378, on remand 345 F.2d 225 14 A.L.R. 3rd 718 and Dansby v. U.S. D.C. N.Y. 1968 291 F. Supp. 790

Plaintiff contends he has layed out the four /4/ classic elements for a cause of action for negligence

1. Legal duties of Ms. Shepard
2. Breach of these duties
3. The casual relation between client and attorney that was established
4. And the damages sustained therefrom

Plaintiff again enjoins Martha Shepard as the Defendant for legal mal-practice and negligence and holds her employers and her liable for damages

CLAIM

Plaintiff makes claim that his 6th 8th 14th Amendments Rights to the Constitution of the United States by the neglect and legal mal-practices of Defendant Martha Shepard

CAUSE OF ACTION

Plaintiff contends that leading a person to believe that they are your friends and here to help and further tell a person that they are legally obligated to your cause and will do the best to repress and protect your interests and secure your release will overwhelm and mentally strengthen a person, under the conditions of prisons and not only gives a person hope and the feeling of trust and appreciation, but relieve that person of all the burdens of worrying and doing all this within a six to eight months period conditions a person and through this conditioning, a positive mental out-look and attitude is projected

from knowing the same, but without even the slightest amount of warning or any notion as to the advesary procedures and the straight out lies and deception told and prcticed, Plaintiff recieves a letter in the mail from Defendant Martha Shepard that sent Plaintiff off in a thoughtless and reckless mental rage, that has left Plaintiff completely in a trama and syndromatically pissed off, this letter stated to Plaintiff, that his appeal was not filed and that it is not going to be filed by Ms. Shepard and that Defendant Martha Shepard wished to terminate because the low merit of the appeal grounds. This letter distinctively shows where Ms. Shepard spent all her time re-searching adverse dis-advantage and prejudicial materials and grounds that apply to why Plaintiff should not have the right to an appeal, this adverse conflicting practice was not what Ms. Shepard had been telling Plaintiff for months. Plain-

tiff had been conditioning himself for months from what Ms. Shepard had told him, how she diligently and zealously perfecting his appeal with persistance in re-assurring him that she is doing her best, Plaintiff abided, by temporarily accepting the conditions of prison, then all of a sudden Plaintiff is severely struck in the mind with the sharp and painful instruments of bad faith, apathy, neglect, deciet, ill will deception, and above all unrestrained power, which constitutes legal mal-practice, which inturn has deprived Plaintiff of his constitutional guarantees that has severely caused Plaintiff great amounts of mental pains anguishes and sufferings, that are, has and will continue to cause Plaintiff irreparable damage. These acts and conducts have destroyed Plaintiff's insitutional objectives and goals Plaintiff has set for the future, Plaintiff is persistantly confussed, upset and scared and has a recently learned dis-trust for lawyers. Plaintiff

further contends that Ms. Shepard should forever be barred from the practices of law and any other public service, because her conduct is ill, deceptive, and above all very damaging to the human mind.

In furtherence it is contended that Ms. Shepard should have never undertook, verbalized a contract to lead Plaintiff to believe she was righteously and honestly devoted and obligated to his cause if her intentions were deviate as they show, this is cruel and unusual treatment that has deprived Plaintiff and left him to suffer therefrom.

Plaintiff wishes to appeal and has attached his brief hereto. Plaintiff has also attached several case citings that will later amend this complaint into a class action. Plaintiff's actions is held as the incipiant stages and represents and honors as many as two /200/ hundred inmates that have been subjected to this same prac-

tice complained about and effectively and systemattically deprived of their right to appeal, also including those who in the future, if this practice is not altered or corrected, to protect the rights that are secured by the United States Constitution.

Plaintiff pursuant to Secs./2201 & 2202/ Title /28/ U.S.C. seeks declatory judgment and injunctive redress and relief for the multiple prejudicial cumulative acts and conduct by the Defendants, resulting from mental anguishes sufferings and pains constituting irreparable damages, further constituting inflictions of humiliations that lacerate feelings and emotions from the deprivations.

Plaintiff seeks to enjoin the parties in this Court and recover the sum of 175,000.00 and further to seek the injunctive relief This matter is clearly in violation of Plaintiff's 6th 8th & 14th amendment rights secured by the Constitution to the United States and Article I Secs. 9,10,17 &

25 to the Constitution of the State of Iowa and clearly adverse to the code of professional responsibility.

Plaintiff clearly shows herein the arbitrary capricous specticles acting in and through the power vested in by Polk County, which sought no other purpose other than to satisfy itself . . . adversly purporting; yet intended to serve not the individual but the County from which its established retained and maintained;

The cumulative and inter-related effects are significant and are the over-all constittutional equasion before this Court;

Plaintiff comes before this Court and states, because the acts and conduct and treatment herein described, Plaintiff prays for relief, for the sum indicated and demanded upon the Defendant parties of this action and in the interest of justice be granted;

Plaintiff deposes and states that I, Russell Richard Dodson in Pro Se am the

Plaintiff of this action and am mentioned as the same or Defendant-Plaintiff throughout, this action is brought in good faith, and I am aware of the contents of this action and hold it to be true and correct.

Respectfully submitted

/s/ _____
Russell Richard Dodson
P.O. Box B
Anamosa, Iowa 52205
PRO SE

Subscribed and sworn to before me this 3rd day of October 1979 at Anamosa, Iowa

/s/ _____
Notary Public

CC:RRD

Copies to Clerk of Court and
Defendants via Clerk of Court:

MOTION TO RECONSIDER ORDER
OR IN ALTERNATIVE,
MOTION FOR LEAVE TO TAKE AN
INTERLOCUTORY APPEAL IN FORMA PAUPERIS
(Filed November 5, 1979,
in the United States District Court
for the Southern District of Iowa)
[Title omitted in printing]

COMES NOW Petitioner, Russell Richard Dodson and moves this Court, to reconsider it's Order of November 5th 1979, which dismissed Plaintiff's complaint as frivolous and for lack of state remedies exhaustion, and for failing to state a claim for enjoining liability purposes. In the alternative Petitioner respecably requests leave to take an interlocutory appeal from said Order In Forma Pauperis. The grounds of this motion are;

1. It appears, that the Courts have completely been mis-guided in there interpretation of the issues that were brought before the courts (See Plaintiff's Exhibit of Explanation, herein attached)

2. It appears that the courts have taken it upon themselves to entertain Plaintiff's injunctive clause as proceedings under habeas corpus 2254 Title 28 U.S.C., Petitioner respectfully states; the courts erred, were wrong, and blindly looked past what was held in: Desmond Vs U.S,. C.A. MASS. 1964 333 F2d 378, on remand 345 F.2d 225, 14 A.L.R. 3rd 718 and Dansby Vs. U.S. D.C.N.Y. 1968 291 F. Supp. 790 (See Petitioner's Exhibit of Explanation, herein attached)

3. It appears, that the action titled 79-507-B, was independent, and individually entertained, and such proceedings were had in a different court, other than the court, were the appeal for 13950, and the subsequent application pursuant to R.A.P. were had, if this is found to be true and correct, then the initial confusion, that caused this court to error in its findings, was caused therefrom. And upon such findings, ground would be properly layed for this

court to sustain this motion, and reconsider its Order, and review this cause again from the right perspective, or to transfer it to the proper court.* Petitioner adds that he just received through the mail, the Order and knows for sure that the action titled 79-507-B was had in a different court, than....District Court CR.NO. 13950 was entertained, the Courts noted that Defendant, had failed to communicate with this court, concerning whether he desires to pursue the appeal, even though more than thirty days have passed, since counsel served a notice of the Application. Under Iowa R. App. P. 104(g), we may deem such a failure to be an agreement with counsel's decisions that the appeal is frivolous.

Petitioner states this would be true if that were the case, but this is not the case, because, Petitioning-Plaintiff-Defendant, did move for communications with the

courts, within the thirty day period, and used his Complaint, and his Brief of Argument, to show the courts, why he desired to further his appeal. (Petitioner has attached hereto a copy of said Order).

Petitioner now, can factually state, that this Court erred in its findings, and instead of furthering-laying out grounds for this Court to reconsider its Order, Petitioner moves this Court, to transfer the action titled 79-507-B to the Court where appeal from District Court CR.NO.13950, was entertained under Court No. 63264 in the Supreme Court.

Petitioner reserves the right to amend and correct his Complaint in that the dismissal, by this Court was pre-mature, and the fact that the Defendants have not filed an Appearance, it would appear, from the courts, that the Complaint is in need of some corrections.

Petitioner comes before this Court with the informations set out herein and requests the propert court venue.

In the alternative, Petitioner requests leave to take an interlocutory appeal In Forma Pauperis to the United States Court of Appeals 8th Circuit from this Courts Order herein entered on November 5th, 1979.

Respectfully Submitted

/s/ _____
Russell Richard Dodson
P.O. Box B
Anamosa, Iowa 52205
PRO SE

Subscribed and sworn to before me this 13th day of Nov. 1979 at Anamosa, Iowa.

/s/ _____
Notary Public

THE STATUTE

42 U.S.C., Section 1983 -

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any state or territory, subjects, or causes to be subjected, any citizen of

the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Consitution and the laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceedings for redress."

THE CODE OF IOWA 1979

CH- 610; ATTORNEYS AND COUNSELORS - Provides definition in 610.15 deceit or collusion, an attorney and counselor, who is guilty of deceit or collusion or consents thereto, with intent to deceive a court or judge or a party to an action or proceeding is liable to be disbarred and shall forfeit to the injured party treble damages to be recovered in a civil action; Plaintiff contends that negligence is an intergal part of mal-practice;
Plaintiff contends that deceit and or collusion are integral parts of mal-practice;

Plaintiff contends that mal-practice is negligence, deceit and or collusion. Plaintiff further contends, that telling a person, you as being his counsel, are diligently at work, doing research to perfect the briefs for his appeal, but in reality are doing adverse, and to the contrary, are researching materials why this person should not have an appeal and at the same time are drawing up plans to terminate as counsel, and not telling this person the truth is clearly deceitful and actionable under 1983

Plaintiff by this show actions under state law for the courts to entertain as well as action under Federal Law, making pendent jurisdiction an alternative authority for the courts to be justified in entertaining this cause 79-507-B Ch- 610; further provides that -

Definition in 610.25 the proceedings to remove or suspend an attorney may be commenced,

by the direction of the court or on motion of any individual;

Plaintiff contends, he made that motion in his Complaint and deposed and stated the Complaint, is true and correct in content.

Ch-613 A 8. further provides that governing bodies of independent or autonomous board or asso.s, are liable under 42 U.S.C. 1983

Petitioner re-states that: Standard D of the Aldisert Report recommends:

If the court determines that the complaint is irreparably frivolous or malicious, it should be dismissed without affording the plaintiff an opportunity to amend. If the court determines that the complaint is frivolous or malicious, but that this defect can be cured by amendment, the court should issue an order to show why the complaint should not be dismissed. The order should explain why the complaint is frivolous or malicious and should allow

the plaintiff an opportunity to respond and amend the complaint. See Section II, En. 27 SUPRA

The Courts did not state the Complaint can not be repaired, the Court did not state it to be malicious, nor did this Court afford Plaintiff the opportunity to amend and such is held as reversable error.

The Courts noted in: Scheuer v. Rhodes, 416 U.S. 232 236, 94 S.Ct. 1683, 1686, 40 LEd. 2d 90, 96 (1974) that a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that plaintiff can prove no set of facts in support of his claim which would entitled him to relief. This language was quoted by the Court in Estell V Gamble,

Petitioner states that his Complaint, clearly stated that the Board of Supervisors authorizes Polk County Offender Advocates to act in the manner complained about from the ground rules they layed out, which

is actionable under 1893.

Petitioner states that his Complaint was authorized and pursuant to Civil Rights Act 1871 and consistent with 1983.

Petitioner re-states: The language of Sec. 1983 requires a degree of cau*sation as an element of individual liability, but it does not specifically require personal participation. The proper question is therefore whether the Complaint adquately alleges the requisite causal connection between the Supervisory Defendants' action and the deprivation of Plaintiffs rights. "Personal participation is only one of several theories which can be used to establish causation. Petitioner respectfully seeks knowing

Is it then: The courts opinion that the State of Iowa allows independent organizations; to operate, upon and under its jurisdictions within its districts of the counties, that our politicall sub-divided

into parts, and contained within the boundaries, that make up the State of Iowa; these organizations, establish in accordance with the standards of the State of Iowa; these organizations conduct in accordance, pursuant to the requirements of the State of Iowa; these organizations are compensated annually from the counties' budget these organizations are governed, regulated, and controlled, by the Board of Supervisors, whom are in turn appointed, up under color of state law, vested with duty and power, to conduct, respect, and operate within the same: And from this said not to be under color of state, when establishing an independent organization, that are not held to be acting within the scope of their duties, nor within or under color of state law, when an agent or asst. from one of these organizations are appointed by the

courts to represent a person, in a court of law, where such persons life or liberty may be at stake, and full protection that our constitution secures should be afforded, such persons are not protected by virtue of state law, in that the opinions upheld that guide the courts today, does not hold independent organizations, agents or, assistants liable, for any injury, damage, violation, or deprivation, that may come from their acts or negligence: as being contrary to the 14th Amendemnt, in making it law; in making it safe for independent individuals, employed by independent agencies, as agents, assistants, or instrumentallities thereof, to infringe and or abridge, by accident, incident, failure to protect, or neglect: upon the rights and privileges of any person: is clear denial of the equal protection of the laws of this State. If this is the opinion of the courts; Petitioners state that this is un-constitutional, prejudicially wrong and above all reversible

error.

And is it further, this Courts opinion, to say that if the Board of Supervisors, chose to establish an independent medical facility, expensed by the County, for the purpose of treating, indigent persons, and if such injury or damage from treatment, sustained death, permanent dis-figurement or loss of limb, and being the direct result of accident, incident, failure to properly care or provide, or mal-practice from neglect that persons are not acting under color of state law and can not be held liabile.

Petitioner notes, the Courts; "Establishing a public defender office is merely a means of administering the states obligation to provide counsel to indigent defendants in criminal causes."

Is it not also the States obligation to administer equal protection of the laws of this State?

Is it then, by this obligation, from

this obligation, in complience with, that such administration, is the direct authority in the State of Iowa that such requirement be enforced and provided; and such obligation was had from political stipulation, and making it a statute of this State, and such a statute combined with others to make up the laws of this State, and such laws are the color of this State, making such administration under and directly the same?

Is it not, that such obligation imposed upon the State, be in and under the same, enforced and provided by institution, organization, or agencies, regulated and controlled by the State?

Is it not contrary, that agencies, independent of the State of Iowa, uncontrolled or regulated by the State of Iowa, and not held to be acting under the colors of the State of Iowa, as well as error from inclination if such obligation of the State be administered thereby, and if such is found to be true,

would it not be authorized-although illegal-from ordinance, regulation, or custom of such usage within the jursidiction of the State of Iowa?

EXHIBIT OF EXPLANATION

Plaintiff-Petitioner, on the 9th of March 1979 was sentenced to a term of twenty five /25/ for first degree robbery, from a District Court jury verdict. On the same day, Petitioner was appointed Martha Shepard, to perfect the appeal from the noticed filed in this case cited as CR. NO 13950.

Petitioner, from March 9th 1979 until September 10th 1979 was under the impression, that his appeal briefs, were being researched and put together for filing the appeal and plans for agruments being drawn up.

Petitioner on September 10th 1979, receives in the mail, adverse to the above, a termination application pursuant to R.A.P. 104 requested by Ms. Shepard, including her

personal letter to Petitioner. And a form from the Courts, that states, that if Defendant, agrees with his attorney that his appeal is frivolous, mark the space so designated and the appeal will be dismissed... or if the appeal is not frivolous from the opinion of the Defendant, and he does not agree with his attorney, then the Defendant, shall set out grounds why his appeal is not frivolous and shold be further entertained in the Courts, and doing all this within thirty /30/ days after received.

Petitioner came before this Court and stated that, the Complaint in Civil Case No. 79-507-B is: -Quote- Defendant sets out the content of his Complaint as an Integral Part, in which the Courts can abstract as grounds to further an appeal in this case cited as 13950. - Unquote -.

Petitioner went further, in his Brief of Argument to Support an Appeal -(Which was clearly labelled-AS THE SAME)-and pointed

out more facts, that he wished to raise on appeal.

Petitioner contended that counsel was ineffective and incompetent, failed, neglected and above all deprived Plaintiff of his rights, and by doing so denied him due process of law, plain-contructed the 1983 action for the purpose to strongly support in-effective assistant of counsel and to further show with events that he was not provided a fair and impartial trial, a proper investigation, or any assistance that he requested, by the conduct of the collusion of office & agents. As instructed by the Courts, this was all done and sent to the Courts, within the thirty /30/ day period required, if he desired to further his appeal, his appeal should not have been dismissed and this is an error on this Courts part.

EXHIBIT OF EXPLANATION

Plaintiff-Petitioner states, in the event, that he was deprived of his right to appeal, by the deception practiced upon him by his counsel,, is entitled to present by motion to vacate and set aside his sentence, the errors ordinarily cognizable on appeal (See Plaintiff's Exhibit, titled the Statute, for Plaintiff's defenition of mal-practice-encompassing deceit as a factor and establishing negligence to further support the claim, herein attached) Also See - Desmond Vs U.S., C.A. Mass. 1964 333 F.2d 378, on remand 345 F.2d 225, 14 A.L.R. 3rd 718.....and Dansby Vs U.S. D.C.N.Y. 1968 291 F. Supp. 790.....as sole authoritys', as why Plaintiff pursuant, added the clause for the injunction to file such a motion that sought such relief.

Plaintiff-Petitioner respectfully states that if any amount of diligence was exercised, in researching the above cited

cases, the courts would have never entertained the injunctive relief as a habeas corpus proceeding. Contrary by doing so, the Court erred making it reversible error for remand.

Although, Plaintiff agrees with the Court, that he did not exhaust his state remedies, he points out, that his Complaint was a means for him to be afforded his state remedy of appeal, which was, and subsequently did, get taken away from him simply, Plaintiff was trying to convince this Court that the acts of his attorney was taking away his state remedies, and can not be held for not exhausting them when he was attempting to make claim for them.

Still further, the Complaint was filed in pro se and the Courts should have afforded more care in their inference, Plaintiff is not an attorney and this should have been weighed in full.

Again Petitioner agrees with the Court,

in that if the Complaint was structured for the purpose of what the Courts held it as being, then such dismissal was warranted. Petitioner Notes: That this Court said the Iowa Supreme Court granted the motion by counsel to terminate pursuant to Iowa R, ARP.P.104 and also dismissed Plaintiff's appeal, the Order by this Court was filed Nov. 5th, the Order by the Supreme Court was filed Nov. 9th which dismissed Plaintiff appeal, is there deception and conspiracy on the part of Justice Harold D. Vietor, and from this can Petitioner say that the consideration was biased and the dismissal prejudicial? Warranting discretionary review?

RULING ON MOTION,
AMENDMENT TO ORDER,
AND ORDERS
(Filed November 20, 1979,
in the United States District Court
for the Southern District of Iowa)
[Title omitted in printing]

Plaintiff's Motion to Reconsider Order or in Alternative, Motion for Leave to Take an Interlocuotry Appeal in Forma Pauperis is before the Court.

The motion to reconsider is overruled.

The Court erroneously gained the understanding from plaintiff's complaint that the Iowa Supreme Court had granted the motion of Ms. Shepard for permission to withdraw and to have the appeal dismissed as frivolous pursuant to Iowa R. App. P. 104. It appears from plaintiff's motion to reconsider order that the Iowa Supreme Court had not in fact acted on Ms. Shepard's motion at the time plaintiff submitted his complaint to this Court and at the time this Court entered its order of dismissal, November 5, 1979. It further appears from

plaintiff's motion to reconsider order that the Iowa Supreme Court did enter such an order on a later date, November 9, 1979. Therefore, the order of dismissal entered by this Court on November 5, 1979, is amended by striking therefrom the last sentence of the second paragraph, and by adding the following paragraph to footnote 1:

> On November 9, 1979, four days after this order of dismissal was filed, the Iowa Supreme Court granted the motion and dismissed plaintiff's appeal. (Nov. 20, 1979, amendment to order of dismissal.)

It further appears from plaintiff's motion to reconsider order that he understood and intended portions of his complaint and particularly the "Brief of Arguments to Support an Appeal" attached to his complaint to constitute a communication to the Iowa Supreme Court that he desired to proceed with his appeal pursuant to Iowa Rule of Appellate Procedure

104. In order to bring this matter to the attention of the Iowa Supreme Court, this Court telephonically advised the Chief Justice of the Iowa Supreme Court of this matter on November 15, 1979, and now orders the Clerk of this Court to forthwith forward to the Chief Justice of the Iowa Supreme Court a copy of this Court's file in this case.

IT IS ORDERED that plaintiff may proceed in forma pauperis to appeal this Court's order of dismissal to the United States Court of Appeals, and the plaintiff's alternative "Motion for Leave to Take an Interlocutory Appeal in Forma Pauperis" shall be treated as his notice of appeal.

Dated this 20th day of November, 1979.

HAROLD D. VIETOR
United States District
Judge

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 79-1996 September Term, 1979

Russell Richard Dodson, Appellant, vs. Polk County; Polk County Board of Supervisors; etc., et al, Appellees.	Appeal from the United States District Court for the Southern District of Iowa

The Court will consider this appeal on the original files of the United States District Court in lieu of the designated record required by local Rule 11. The clerk of the United States District Court for the Southern District of Iowa is hereby requested to forward his original files in case Civ 79-507-B to this Court.

November 23, 1979

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 79-1996 September Term, 1979

Russell Richard Dodson,	)	
Appellant,	)	Appeal from the United States District Court for the Southern District of Iowa
vs.	)	
Polk County, et al,	)	
Appellees.	)	

Appellant's pro se application for a stay of appeal pending state court proceedings is hereby denied.

On the Court's own motion Mr. Jack Hudson of the Iowa Bar is appointed to represent the appellant under the inherent power of the Court on the sole issue as to whether or not a Public Defender is subject to suit under the Civil Rights Act.

Appellant, pro se, may file a pro se brief on any other issue that he deems necessary.

February 4, 1980

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1980

No. 80-824

POLK COUNTY; POLK COUNTY BOARD OF SUPERVISORS; POLK COUNTY OFFENDER ADVOCATE; and MARTHA SHEPARD, Individually and through her official capacity as an Agent or Assistant for Polk County,

Petitioners,

VS.

RUSSELL RICHARD DODSON,

Respondent.

ON WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR
THE EIGHTH CIRCUIT

ORDER ALLOWING CERTIORARI

Filed March 2, 1981

The Petition herein for a Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit is granted.

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1980

No. 80-824

POLK COUNTY; POLK COUNTY BOARD OF SUPERVISORS; POLK COUNTY OFFENDER ADVOCATE; and MARTHA SHEPARD, Individually and through her official capacity as an Agent or Assistant for Polk County,

Petitioners,

VS.

RUSSELL RICHARD DODSON,

Respondent.

ON WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR
THE EIGHTH CIRCUIT

ORDER

On consideration of the Motion of Respondent for Leave to Proceed in Forma Pauperis,

It is ordered by this Court that the said Motion be, and the same is hereby,

granted.

March 2, 1981

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1980

No. 80-824

POLK COUNTY; POLK COUNTY BOARD OF SUPERVISORS; POLK COUNTY OFFENDER ADVOCATE; and MARTHA SHEPARD, Individually and through her official capacity as an Agent or Assistant for Polk County,

Petitioners,

VS.

RUSSELL RICHARD DODSON,

Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

ORDER

On consideration of the Motion for Appointment of Counsel,

It is ordered by this Court that the said Motion be, and the same is hereby, granted, and it is ordered that John D.

Hudson, Esquire, of Des Moines, Iowa, is appointed to serve as counsel for the Respondent in this case.

March 23, 1981

CERTIFICATE OF FILING

I, Thomas M. Werner, hereby certify that I filed the foregoing Joint Appendix by depoisting forty copies thereof in the United States mail on May 5, 1981, addressed to the Clerk of the Supreme Court of the United States, Washington, D.C. 20543. The revised edition of the Joint Appendix was mailed to the Clerk on or before May 29, 1981.

Tom Werner

Thomas M. Werner
Assistant Polk County Att.
Room 372
Polk County Office Bldg.
Des Moines, IA 50309

ATTORNEY FOR PETITIONERS

CERTIFICATE OF SERVICE

I, Thomas M. Werner, hereby certify that on the 5th day of May, 1981, three copies of the Joint Appendix were mailed, postage prepaid, to John D. Hudson, 510 Fleming Building, Des Moines, Iowa, Counsel for the Respondent. The revised edi-

tion of the Joint Appendix was mailed to Mr. Hudson on or before May 29, 1981. I further certify that all parties required to be served have been served.

Tom Werner

Thomas M. Werner
Assistant Polk County Att.
Room 372
Polk County Office Bldg.
Des Moines, IA 50309

ATTORNEY FOR PETITIONERS